

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MICHAEL BIRCHETT, JR., et al.,

Plaintiffs,

v.

Case No. 07-CV-12939-DT

APARTMENT INVESTMENT AND
MANAGEMENT COMPANY, et al.,

Defendants.

**ORDER GRANTING PLAINTIFFS' MOTION TO STAY
AND ADMINISTRATIVELY CLOSING CASE**

Pending before the court is Plaintiffs' "Motion to Stay Proceedings Pending a Decision by the Judicial Panel on Multidistrict Litigation," filed on December 14, 2007. The matter has been fully briefed and the court concludes a hearing on the motion is not necessary. See E.D. Mich. LR 7.1(e)(2). Plaintiffs seek a stay in this case pending resolution by the Judicial Panel on Multidistrict Litigation ("MDL Panel") on Plaintiffs' motion requesting transfer of this matter to the United States District Court for the District of Columbia for consolidated or coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407. Defendants oppose the stay, arguing that Plaintiffs seek a stay in order to prolong discovery in contravention of their duties under the Federal Rules of Civil Procedure and their obligations under a pre-suit contract entered into between the parties. The court has carefully considered the matter, and concludes that a stay is in the interests of judicial economy and would not substantially prejudice Defendants.

“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North American Co.*, 299 U.S. 248, 254-55 (1936). “How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” *Id.* Plaintiffs’ motion to transfer is set for hearing before the MDL Panel on January 30, 2008 and the court has no reason not to anticipate a prompt resolution of the motion following the hearing. While the court recognizes Defendants’ concerns, the court finds that a stay will best conserve the resources of counsel, the litigants and the court. *Id.* Accordingly,

IT IS ORDERED that all proceedings in this matter are STAYED until further order of the court. IT IS FURTHER ORDERED that the clerk of the court is DIRECTED to administratively close this matter for statistical purposes only.

Plaintiffs are DIRECTED to notify the court within three business days after the MDL Panel resolves Plaintiffs’ pending motion to transfer. If the motion to transfer is denied, the court will automatically lift the stay and re-open the case. Any outstanding discovery responses to requests currently pending will be due within three weeks of the date the case is re-opened.

In the event the MDL panel does not rule within four months from the date of this order, the court will schedule a telephone conference to discuss whether the stay should be lifted.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: December 26, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, December 26, 2007, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522